

HERRERA PURDY LLP
 Shawn M. Kennedy (SBN 218472)
 skennedy@herrerapurdy.com
 Andrew M. Purdy (SBN 261912)
 apurdy@herrerapurdy.com
 Bret D. Hembd (SBN 272826)
 bhembd@herrerapurdy.com
 4590 MacArthur Blvd., Suite 500
 Newport Beach, CA 92660
 Tel: (949) 936-0900
 Fax: (855) 969-2050

HERRERA PURDY LLP
 Nicomedes Sy Herrera (SBN 275332)
 nherrera@herrerapurdy.com
 Laura E. Seidl (SBN 269891)
 lseidl@herrerapurdy.com
 1300 Clay Street, Suite 600
 Oakland, CA 94612
 Tel: (510) 422-4700
 Fax: (855) 969-2050

LIEFF CABRASER HEIMANN &
 BERNSTEIN, LLP
 Rachel Geman (*Pro Hac Vice*)
 rgeman@lchb.com
 Rhea Ghosh (*Pro Hac Vice*)
 rghosh@lchb.com
 250 Hudson Street, 8th Floor
 New York, NY 10013-1413
 Tel: (212) 355-9500
 Fax: (212) 355-9592

Interim Co-Lead Class Counsel

LIEFF CABRASER HEIMANN &
 BERNSTEIN, LLP
 Michael W. Sobol (SBN 194857)
 msobol@lchb.com
 Melissa Gardner (SBN 289096)
 mgardner@lchb.com
 275 Battery Street, 29th Floor
 San Francisco, CA 94111-3339
 Tel: (415) 956-1000
 Fax: (415) 956-1008

BURNS CHAREST LLP
 Warren T. Burns (*Pro Hac Vice*)
 wburns@burnscharest.com
 Russell Herman (*Pro Hac Vice*)
 rherman@burnscharest.com
 900 Jackson Street, Suite 500
 Dallas, TX 75202
 Tel: (469) 904-4550
 Fax: (469) 444-5002

BURNS CHAREST LLP
 Christopher J. Cormier (*Pro Hac Vice*)
 ccormier@burnscharest.com
 4725 Wisconsin Avenue, NW, Suite 200
 Washington, DC 20016
 Tel: (202) 577-3977
 Fax: (469) 444-5002

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

IN RE PLAID INC. PRIVACY
 LITIGATION

THIS DOCUMENT RELATES TO:
 ALL ACTIONS

Master Docket No.: 4:20-cv-03056-DMR

**PLAINTIFFS' REQUEST FOR
 JUDICIAL NOTICE**

Hon. Donna M. Ryu

Action Filed: May 4, 2020

Trial Date: None Set

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT pursuant to Federal Rule of Evidence 201, Plaintiffs hereby
3 respectfully request that the Court take judicial notice of the following materials in support of Plaintiffs'
4 Opposition to Defendant Plaid, Inc.'s Motion to Dismiss (Dkt. 78), filed concurrently herewith.

5 Exhibit 1 to the Geman Declaration is the Complaint filed October 14, 2020 in the action
6 *Toronto-Dominion Bank v. Plaid Inc.*, No. 20-14424 (D.N.J.). "A court may take judicial notice of
7 undisputed matters of public record, which may include court records available through PACER." *U.S.*
8 *v. Raygoza-Garcia*, 902 F.3d 994, 1001 (9th Cir. 2018), citing Fed. R. Evid. 201(b). Courts may take
9 judicial notice of court records filed in other actions, "to establish the fact of the litigation," as well as
10 any undisputed facts reflected therein. *Petrovich v. Ocwen Loan Servicing, LLC*, No. 15-00033, 2016
11 WL 555959, at *4 (N.D. Cal. Feb. 12, 2016), *aff'd*, 716 F. App'x 614 (9th Cir. 2017). *See also, e.g.,*
12 *Lodgepole Invs., LLC v. Barsky*, No. 15-00549, 2015 WL 1306849, at *4 (N.D. Cal. Mar. 23, 2015)
13 (judicially noticing complaint in other litigation); *Boisvert v. Li*, No. 13-01590, 2014 WL 279915, at *3
14 (N.D. Cal. Jan. 24, 2014) (same).

15 Exhibits 2 through 7 to the Geman Declaration are legislative materials concerning California
16 Senate Bill No. 355 (2005-2006 Regular Session), codified as the California Anti-Phishing Act of 2005
17 ("CAPA"), Cal. Bus. & Prof. Code §§ 22948 *et seq.* Specifically, these materials include publicly
18 available committee reports and versions of Senate Bill 355, all of which are well-recognized subjects of
19 judicial notice. *See Anderson v. Holder*, 673 F.3d 1089, 1094 n.1 (9th Cir. 2012) ("Legislative history is
20 properly a subject of judicial notice"). Alternatively, these materials concern "only legislative facts,"
21 which the Court is free to consult, and "for which '[j]udicial notice ... is unnecessary.'" *Blumenthal*
22 *Distrib., Inc. v. Herman Miller, Inc.*, 811 F. App'x 421, 422 (9th Cir. 2020), quoting *Von Saher v.*
23 *Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010); citing *Owino v. Holder*,
24 771 F.3d 527, 534 n.4 (9th Cir. 2014); Fed. R. Evid. 201 advisory committee notes.

25 Plaintiffs therefore respectfully request that the Court take judicial notice of, and/or consult, the
26 following Exhibits to the accompanying Geman Declaration:

- 27 1. Complaint (Dkt. 1) in *Toronto-Dominion Bank v. Plaid Inc.*, No. 20-14424 (D.N.J., filed October
28 14, 2020), attached as **Exhibit 1**.

2. Assembly Committee on Appropriations Bill Analysis regarding Senate Bill 355 (July 13, 2005), attached as **Exhibit 2**.
3. Assembly Committee on Judiciary Bill Analysis regarding Senate Bill 355 (June 28, 2005), attached as **Exhibit 3**.
4. Senate Rules Committee Bill Analysis regarding Senate Bill 355 (August 25, 2005), attached as **Exhibit 4**.
5. Introduction of Senate Bill 355 by Senator Murray (February 16, 2005), attached as **Exhibit 5**.
6. Assembly Committee on Business and Professions Bill Analysis regarding Senate Bill 355 (June 21, 2005), attached as **Exhibit 6**.
7. Senate Judiciary Committee Bill Analysis regarding Senate Bill 355 (April 5, 2005), attached as **Exhibit 7**.

Dated: November 17, 2020

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

/s/ Rachel Geman

Rachel Geman

Rachel Geman (*Pro Hac Vice*)

rgeman@lchb.com

Rhea Ghosh (*Pro Hac Vice*)

rghosh@lchb.com

250 Hudson Street, 8th Floor

New York, NY 10013-1413

Tel: (212) 355-9500

Fax: (212) 355-9592

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

Michael W. Sobol (SBN 194857)

msobol@lchb.com

Melissa Gardner (SBN 289096)

mgardner@lchb.com

275 Battery Street, 29th Floor

San Francisco, CA 94111-3339

Tel: (415) 956-1000

Fax: (415) 956-1008

1 Dated: November 17, 2020

HERRERA PURDY LLP

2 /s/ Shawn Kennedy
3 Shawn M. Kennedy

4 Shawn M. Kennedy (SBN 218472)
5 skennedy@herrerapurdy.com
6 Andrew M. Purdy (SBN 261912)
7 apurdy@herrerapurdy.com
8 Bret D. Hembd (SBN 272826)
9 bhembd@herrerapurdy.com
4590 MacArthur Blvd., Suite 500
Newport Beach, CA 92660
Telephone: (949) 936-0900
Fax: (855) 969-2050

9 HERRERA PURDY LLP
10 Nicomedes Sy Herrera (SBN 275332)
11 nherrera@herrerapurdy.com
12 Laura E. Seidl (SBN 269891)
13 lseidl@herrerapurdy.com
1300 Clay Street, Suite 600
Oakland, CA 94612
Telephone: (510) 422-4700
Fax: (855) 969-2050

14 Dated: November 17, 2020

BURNS CHAREST LLP

15 /s/ Christopher Cormier
16 Christopher J. Cormier

17 Christopher J. Cormier (*Pro Hac Vice*)
18 ccormier@burnscharest.com
4725 Wisconsin Avenue, NW
Washington, DC 20016
Tel: (202) 577-3977
Fax: (469) 444-5002

20 BURNS CHAREST LLP
21 Warren T. Burns (*Pro Hac Vice*)
22 wburns@burnscharest.com
23 Russell Herman (*Pro Hac Vice*)
24 rherman@burnscharest.com
900 Jackson Street, Suite 500
Dallas, TX 75202
Tel: (469) 904-4550
Fax: (469) 444-5002

25 *Interim Co-Lead Class Counsel*